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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,408	10/01/2003	Juergen Roemisch	6478.1446-01	5124
22852	7590	08/04/2006	EXAMINER	
FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER LLP 901 NEW YORK AVENUE, NW WASHINGTON, DC 20001-4413			LIU, SAMUEL W	
			ART UNIT	PAPER NUMBER
			1653	

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/674,408

Applicant(s)

ROEMISCH ET AL.

Examiner

Samuel W. Liu

Art Unit

1653

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 07 July 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☒ Applicant's reply has overcome the following rejection(s): under 35 USC 112, second paragraph to instant claims 18-62.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: none.
Claim(s) objected to: 38, 42-44, 53 and 57-59 (these claims depend upon a rejected base claims 33 and 48).
Claim(s) rejected: 18-37, 39-41, 45-52, 54-56 and 60-62.
Claim(s) withdrawn from consideration: none.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____.
13. ☐ Other: _____.

Continuation of 11. does NOT place the application in condition for allowance because: Applicants' reply (filed 7/7/06) to the Office action mailed 4/7/06 submits that Choi-Miura et al. do not teach the composition comprising the pure form of claimed protease and the recited additional ingredient set forth in the claims (page 12 of the response). For the same reason, the response argues against the rejection under 35 USC 103 (based on the Choi-Miura et al. reference) is not obvious to the claimed composition (pages 13-14). Also, the response discusses the motivation of combining Choi-Miura and Turner et al. and asserts that Turner et al do not suggest or teach adding the cocktail (for cleaving protein) containing the proteinase inhibitors to a pure solution comprising the purified protease activating blood clotting factor VII (page 15 of the response).

The applicant's arguments are found to be unpersuasive because of the following reasons.

As discussed in the Office action, Choi-Miura et al. teach the highly purified (considered to be the "pure form") protease activating blood clotting factor VII comprising instant SEQ ID NOs:1-4 (see Figure 5), and teach a composition comprising the purified protease protein purified from HA-Sepharose (see "Purification of PHBP" section at page 1158) and albumin before affinity chromatography (note that the claimed composition as written per se comprises "contaminant" molecule, e.g., albumin, and that the claims as written does not expressly indicate that the component (in addition to the purified protease activating blood clotting factor VII), e.g., albumin, is added after final purification of the protease. Thus, the rejection under 35 USC 102 to the claims stands.

As discussed in the Office action, Choi-Miura et al. have taught that the purified protease is cleavage in solution by proteases. It is well-known to the skilled artisan that EDTA and protease-inhibitor, e.g., aprotinin, are routinely used in protein purification and storage; the example for this is further evidenced/supported by the Turner et al. cocktail solution. Thus, the rejection under 35 USC 103 is maintained.

At page 15, the response requests abeyance of the obvious-type double patenting rejection to Application No. 11118396 until allowable subject matter is indicated. Note that no allowable subject matter can be indicated with a standing ground of rejection. Thus, it is suggested that applicant file the appropriate terminal disclaimer.



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PRIMARY EXAMINER